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[*Mitchell v. Arizona Public Service Co.*, 92-ERA-28 \(Sec'y June 28, 1993\)](#)
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DATE: June 28, 1993
CASE NOS. 92-ERA-28
 92-ERA-29
 92-ERA-35
 92-ERA-55

IN THE MATTER OF

LINDA E. MITCHELL,

COMPLAINANT,

v.

ARIZONA PUBLIC SERVICE COMPANY

and

ARIZONA NUCLEAR POWER PROJECT,

RESPONDENTS.

BEFORE: THE SECRETARY OF LABOR

FINAL ORDER APPROVING SETTLEMENT AGREEMENT
AND DISMISSING CASES

The captioned cases, which are before me for review, arise under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA). Prior to hearing the parties submitted a Joint Motion to Approve Settlement Agreement and for Dismissal with Prejudice, a fully executed Settlement Agreement, and a General Release agreement to the Administrative Law Judge, who construed certain provisions of the settlement and recommended its approval. Recommended Order of Dismissal at 1.

The terms of the parties' agreement have been reviewed. I

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note that certain language in the agreement could be construed as a waiver by Complainant of causes of action she may have which arise in the future. See, e.g., Settlement Agreement at 2-3. Because a waiver of Complainant's rights based on future employer actions would be contrary to public policy, I interpret these provisions as limited to a waiver of the right to

seek damages in the future based on claims or causes of action arising out of facts or any set of facts occurring before the date of the agreement. See *Polizzi v. Gibbs and Hill*, Case No. 87-ERA-38, Sec. Order Rejecting in Part and Approving in Part Settlement Submitted by the Parties and Dismissing Case, July 18, 1989, slip op. at 9, and cases cited therein.

The parties jointly request that I maintain the Settlement Agreement confidential and under seal. Joint Motion at 3. The parties note in the Settlement, however, that "[n]othing in this Agreement shall be construed to restrict the disclosure of the terms of this Agreement where required by law." Settlement at 4. I note that the Freedom of Information Act, 5 U.S.C. § 552 (1982), requires Federal agencies to disclose requested records unless the records are exempt from disclosure under that Act, and therefore deny the request that the Settlement remain confidential and under seal.

As so construed, I find the terms of the agreement to be fair, adequate, and reasonable, and therefore approve the

Settlement Agreement. Accordingly, this case is DISMISSED WITH
PREJUDICE. See, Settlement Agreement at 2.

SO ORDERED.

ROBERT B. REICH
Secretary of Labor

Washington, D.C.